

## **NGO Statement on the amendment of “Council Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste”**

We, the 12 undersigned NGOs, welcome the opportunity to submit our suggestions for amending the Nuclear Waste Directive.

The Directive 2011/70/Euratom (Nuclear Waste Directive) is per se a valuable driver for improvement of the management of spent fuel and radioactive waste in the EU, but it has some shortcomings. Since it came into force, we monitored its implementation and want to submit the following requests for amendment:

### **Scope of the Nuclear Waste Directive**

The Nuclear Waste Directive does not cover all radioactive materials and wastes. Not in the scope are in most countries:

- Military wastes
- Uranium mine and mill tailings (UMMT)
- NORM, TENORM and depleted uranium
- Legacy waste that has been dumped into the Sea or been exported to the Global South

### **Our suggestion to improve the Nuclear Waste Directive:**

- The Nuclear Waste Directive needs to include all types of radioactive materials and waste.
- Legacy waste from Sea dumping and export to the Global South needs to be recovered, re-characterized, re-packaged and disposed of in a safe way.

### **Transparency and public participation**

In Article 10, transparency and public participation are regulated. Experience of the last years shows that both transparency and public participation often do not fulfil international and EU law<sup>1</sup>:

- The European public does not have access to all national programmes; DG ENER’s website<sup>2</sup> is outdated, some countries’ programmes are not available at all, some links are broken, English versions are missing.

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<sup>1</sup> Aarhus Convention, Espoo Convention, EU EIA and SEA law

<sup>2</sup> [https://energy.ec.europa.eu/topics/nuclear-energy/radioactive-waste-and-spent-fuel\\_en#national-policies-for-spent-fuel-and-radioactive-waste](https://energy.ec.europa.eu/topics/nuclear-energy/radioactive-waste-and-spent-fuel_en#national-policies-for-spent-fuel-and-radioactive-waste)

- Only about half of EU member states have conducted a Strategic Environmental Assessment (SEA) for their national programme for the management of spent fuel and radioactive waste (EC COM(2019)632, p. 13).
- Many countries enable only local participation nearby the relevant nuclear site but no participation on national and transboundary level.
- Old storage, disposal and treatment facilities which started operation before the Environmental Impact Assessment (EIA) laws came into force were never subjected to an EIA. Therefore, neither impacts on the environment were fully assessed, nor was the public able to participate. An EIA often is the only legally secured participation instrument some countries enable.
- Site selection for deep geological repositories in some countries does not allow for public participation (e.g. Czech Republic) beyond comments which are entirely refused.
- Effective participation during operation of waste facilities is mostly not covered by national laws. Regular participation should be enabled during PSRs. The public has the right to know about changes in risk, safety and security, and environmental impacts.
- Not all organisations responsible for nuclear waste are regulated under the Freedom of Information Act, esp. private waste management organisations. Therefore, they can avoid answering questions of the public. All information on nuclear waste management should be open to the public.

#### **Our suggestion to improve the Nuclear Waste Directive:**

- The Directive's Art. 10 (2) stipulating that "*Member States shall ensure that the public be given the necessary opportunities to participate effectively in the decision-making process regarding spent fuel and radioactive waste management in accordance with national legislation and international obligations*" might need some clearer guidance for member states on how to proceed and how to ensure effective public participation.
- Transparency and participation regimes need to fulfil the EU EIA laws, the Espoo Convention and the Aarhus Convention.
- The national programmes for the management of spent fuel and radioactive waste and all of their major updates need to be subjected to a Strategic Environmental Assessment, also transboundary.
- Effective participation needs to be ensured for the public on local, national and transboundary level
- For all facilities for treatment, storage and disposal of radioactive waste and spent fuels participation needs to be ensured during the whole operation time and also post-closure for final repositories. PSRs would be good points in time to establish public participation procedures.

- Participation has to take place before decisions are made. Before participation for a specific project is started, the conditions for the participation need to be on the table.
- Additionally, the dedicated DG ENER website shall provide all national programmes and national reports, former and recent versions, together with an English translation.

### **Costs and financing:**

Article 9 obliges EU member states to ensure that adequate financial resources are available when needed. Article 4 (3)(e) defines that *“the costs for the management of fuel and radioactive waste shall be borne by those who generated those materials”*. According to Article 12 (h) and (i) the member states are obliged to report on costs, cost assessment methodology and financing schemes in the national programmes.

Many member states do neither have reliable data about the future costs of their nuclear programmes’ back-end nor the financial means to cover them. This is also recognized by EC: *“The assessment of costs is sometimes out-of-date or not comprehensive, therefore impacting the effectiveness of financing schemes with a risk that they will not be sufficient to cover the costs.”* (EC COM(2024)197, p. 16)

The key question is who will pay for waste management once the dedicated funds have run dry, in particular once the waste generators after decommissioning of the last NPP will have stopped their contributions into those funds. There will hardly be another solution but making the taxpayers pay.

### **Our suggestion to improve the Nuclear Waste Directive:**

Article 9 needs to be amended:

- Costs need to be updated in regular intervals. They need to be based on realistic assessments with publicly available data; outdated data are not acceptable.
- Full transparency on costs is needed. Guidelines will be necessary to make the member states’ data transparent and comparable.
- Full transparency on financing is needed. The dedicated funds need to report regularly on their volumes, investment strategies, and future prognosis.
- In response to the increased costs for nuclear waste management, the fees paid by the nuclear industry into the funds need to be adapted in regular short-term intervals.
- Efficient control on cost assessments and financing instruments is needed. The European Court of Auditors could be involved in controlling data on cost and financing.

## **Long-term interim storage**

Many member states will only have final repositories (esp. for HLW) in decades or in the next century. Long-term interim storage will therefore become the main management route. The EURAD-2 WP ASTRA showed a long list of problems that need to be solved to make long-term interim storage a safe and secure management option.

This should be reflected in the Nuclear Waste Directive.

### **Our suggestion to improve the Nuclear Waste Directive:**

- Article 12(d) needs to cover explicitly concepts and technical solutions for long-term storage.

## **Long-term stewardship including retrievability and recoverability**

The national programmes have to include concepts for the post-closure phase of final repositories. For uranium mine and mill tailings the EC explicitly asks for developing long-term stewardship<sup>3</sup>. The public has a strong interest in these issues, therefore it is a problem that in most national programmes these issues are not adequately treated.

In a first step, more transparency is needed:

- For which types of radioactive material and waste is a country planning long-term stewardship?
- What concepts are foreseen to retrieve and/or recover nuclear waste from a final repository?
- Is monitoring in the final repositories foreseen? What monitoring results might result in retrieving or recovering the waste?
- Which environmental monitoring is foreseen and for how long?
- Is record, data and memory keeping for final repositories foreseen, and if yes, how?
- Is a programme ongoing for preparing a Set of Essential Records (SER) and a Key Information File (KIF)?

### **Our suggestion to improve the Nuclear Waste Directive:**

Art. 12(e) should be formulated more precisely and ask for information on:

- Long-term stewardship
- Retrievability and recoverability
- Monitoring in closed final repositories

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<sup>3</sup> Commission Staff Working Paper: Situation Concerning Uranium Mine and Mill Tailings in the European Union COM\_SEC(2011) 340 final

- Environmental monitoring after closure

### **Shared solutions and export of radioactive waste and spent fuel**

Many countries would be happy if they could export their nuclear waste in another member state or a third country to get rid of the problem. We oppose export of nuclear waste because the principle of ultimate responsibility of the member state where the waste was produced might be breached easily when it is out of sight. Exporting waste always bears the temptation to use a peripheral, poorer regions with lower democratic standards. The regulations in Art 4(4) might not be sufficient to avoid social and environmental dumping. For example: Being a party to the “Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management” is not enough qualification for being allowed to accept nuclear waste from member states. Russia is a member of the Joint Convention and surely is not acceptable.

Shared solutions in the form of multinational repositories face many unsolved problems which will take a long time to be solved – if this is possible at all. Waiting for shared solutions might lead to postponement of national repository projects, which is criticized by the EC in several of its implementation reports.

In 2023, the European Parliament recommended that the Commission carry out a pilot project for a Joint European Approach towards Radioactive Waste. Máté Kukovecz of DG ENER explained in Sept 2025 that the biggest political barrier to a joint final repository is public opposition. However, there are no plans for public participation in the pilot project, and it has not even been decided whether the results of the pilot project will be made public at all. NGOs have submitted proposals for participation and offered to hold discussions, but so far without success.

### **Our suggestion to improve the Nuclear Waste Directive and debates on shared solutions:**

- Amending Art 4(4) to ensure avoiding social and environmental dumping

Furthermore, EC should make the results of the Pilot Project public and start with participation as soon as possible.

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